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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,643	09/08/2003	Sheila Lynn Schlitter		2823
7590	06/08/2005			
Sheila Lynn Schlitter 507 Orchard Lane Winnetka, IL 60093			EXAMINER MAH, CHUCK Y	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/657,643	<b>Applicant(s)</b> SCHLITTER, SHEILA LYNN	
	<b>Examiner</b> Chuck Mah	<b>Art Unit</b> 3676	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, lines 8-9, it cannot be understood what "a first member" and "a second member" are referring to and how these members are structurally related to the "doorstop" as claimed. Note similar errors in claim 11.

Claim 3 is vague and indefinite since the claimed limitation (magnetic member) is being defined in terms of an extraneous element (said knuckle) that is not a part of the positive claimed limitations. Note similar errors in claims 4, 6, 12, 13 and 18.

Claim 7 is vague and indefinite since there is no sufficient structure to support the function of "adjustable". The invention as claimed cannot be understood structurally. Note similar errors in claim 15.

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In claim 8, it is not clear how "a threaded member" is functionally related to the doorstep. Note similar errors in claim 16.

Both claims 9 and 10 are confusing. From independent claim 2, it is understood that a "doorstop" is being claimed. Later in claims 9 and 10, the doorstep is said to be "positioned on a surface of said knuckle". It is not clear whether applicant intends to claim a doorstep-knuckle combination or only a doorstep subcombination. For examination purpose, all claims are treated as claiming a subcombination. The knuckle, the door and doorjamb are considered as environmental limitations. Further, in claim 10, lines 2-3, "the corner space formed between the door when it is not closed and a frame member adjacent the door" is not understood. Note similar errors in claims 19 and 20.

***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-6, 9-14, and 17-20, as best as understood, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by FR 2677398 A3.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-6, and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whiting '762 in view of FR '398 for the same reasons as stated in last office action.

7. Claims 7, 8, 15 and 16 may be given favorable consideration if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments filed Apr. 27, 2005 have been fully considered but they are not persuasive. Before addressing applicant's arguments, examiner would like to point out that FR'938 shows a magnet (3) disposed in housing (1) and having a first and second transverse edges (see fig. 4, opposite edges intended to contact a first member 4 and a second member 6 ). The magnet is capable of being "adapted to be placed on a knuckle". "adapted to..." in any claim is not considered a positive limitation but an intended use. Intended use is given no patentable weight. Therefore FR'938 meets the limitations as claimed in claims 1-6, 9-14 and 17-20.

In response to applicant's argument that Whiting uses "a mounting screw" to fix the doorstep. The examiner agrees. However, the rejection is based on a combination

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of two patents. Applicant cannot show non-obvious by simply attacking references individually. *In re Keller*, 208 USPQ 871 (CCPA 1981).

Further, it may be true that "The French '398 patent does not disclose precisely where or how a permanent magnet might be housed." FR'398, however, simply meets the limitations as claimed.

### **Conclusion**

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Mah whose telephone number is (571)272-7059. The examiner can normally be reached on 5/4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571)272-7049. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Chuck Mah  
Primary Examiner  
Art Unit 3676

CM